



**TERRE HAUTE**  
A LEVEL ABOVE

# Area Planning Department For Vigo County

159 Oak Street, Terre Haute, Indiana 47807

Telephone: (812) 462-3354

Fax: (812) 234-3248

Terre Haute • West Terre Haute • Riley • Seelyville

DATE: May 4, 2023

## REPORT TO THE CITY COUNCIL ON ZONING MAP AMENDMENT

THE VIGO COUNTY AREA PLAN COMMISSION HEREBY GIVES CERTIFICATION TO  
SPECIAL ORDINANCE NUMBER 11-23

CERTIFICATION DATE: May 3, 2023

TO: The Honorable Common Council of the City of Terre Haute

Dear Members,

The Vigo County Area Plan Commission offers you the following report and certification on Special Ordinance No. 11-23. This Ordinance is a rezoning of 4355 East Wabash, Terre Haute, IN. Parcel number 84-07-19-102-001.000-009. The Petitioner, Debaun Funeral Homes, Inc, petitions the Plan Commission to rezone said multi-family housing is currently planned, from zoning classification C-6 to R-3 General Residence District.

The Ordinance was published in the Tribune-Star Newspaper in accordance with IC 5-3-1 and Division XIII of the Comprehensive Zoning Ordinance. Further, this ordinance was posted by the City Building Inspection Department in accordance with IC 36-7-4-604(c).

The Area Plan Commission considered Special Ordinance No. 11-23 at a public meeting and hearing held Wednesday, May 3, 2023. Remonstrators were present. At this meeting, a quorum was present throughout the meeting pursuant to IC 36-7-4-301, and the Area Plan Commission took official action on Special Ordinance No. 11-23 as required by IC 36-7-4-302. The Area Plan Commission of Vigo County now hereby attaches certification to Special Ordinance No. 11-23 as required by IC 36-7-4-401(a)(7) and IC 36-7-4-605(c).

Therefore, Area Plan Commission's certified recommendation on Special Ordinance No. 11-23 was FAVORABLE WITH THE FOLLOWING CONDITION: 1) Site plan approval by City Engineering.



A handwritten signature in black ink, appearing to read "Fred L. Wilson".

Fred L. Wilson, President

A handwritten signature in black ink, appearing to read "Jared Bayler".

Jared Bayler, Executive Director

Received this 4th day of May, 2023

## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #11-23

Doc: # 34

Date: May 2023

Page 1 of 4

### APPLICATION INFORMATION

Petitioner: Debaun Funeral Homes, Inc.

Property Owner: Same-As-Above

Representative: Richard J. Shagley II

Proposed Use: Multi-Family Housing

Proposed Zoning: R-3 General Residence District

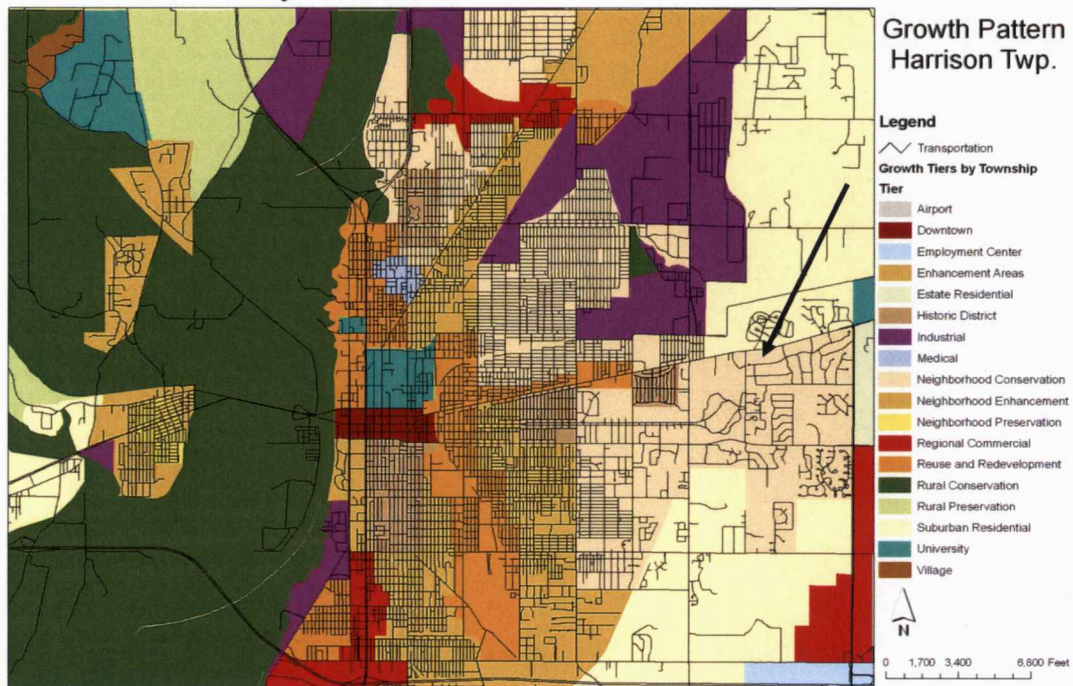
Current Zoning: C-6, Strip Business District

Location: The property consists of 1.71 acres on the southeast corner of Keane Lane and East Wabash Ave.

Common Address: 4355 East Wabash Terre Haute 47803

### COMPREHENSIVE PLAN GUIDANCE

Service Area: The City of Terre Haute



## STAFF REVIEW – CITY OF TERRE HAUTE ZONE CHANGE

Number: SO #11-23

Doc: # 34

Date: May 2023

Page 2 of 4

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### Neighborhood Conservation

These areas encompass neighborhoods with established and stable residential environments. The vast majority of these areas are fully developed (or expected to be in a relatively short timeframe). Fundamental directives urged for these areas encourage the maintenance of the residential desirability and stability. Where new infill development is proposed, it should be entirely consistent and compatible with pre-existing developments. However, special public attention may, in some cases, be required to assure that drainage, sidewalk improvements, and linkages to pedestrian and bicycle trails are made. Many of these neighborhoods may be excellent candidates for special assessment districts for neighborhood improvements and amenities.

In addition, these areas encompass existing retail activity nodes located throughout the community. In general, these commercial areas have evolved in an unplanned, largely uncoordinated manner along frontage of primary arterials. Within these commercial bands, a great variety of activities exist which target different markets. Some activities are oriented toward “drive-by” markets, fast food restaurants, convenience stores, gasoline stations, drive-in banking facilities, for example. Other activities are special-purpose, oriented to single trips rather than comparative multi-purpose shopping. These single purpose

Available Services: Area is well served by utilities.

Soil Limitations: unknown

Street Access: Keane Lane (Local) and East Wabash Ave (Major)

Dev. Priority: Medium

### ZONING COMPATIBILITY

Sur. Zones and Uses:    **North** – O-1, R-3  
                                  **East** – C-1, C-6  
                                  **South** – R-1  
                                  **West** – R-1

Character of Area: Within this area of the City of Terre Haute there are a few large communal land-uses, which consist of graveyards, and a city park. Residential uses consist of suburban lot developments averaging 26,000 Sq. Ft.

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## ZONING REGULATIONS

R-3 Purpose: The General Residence District

R-3 Uses: Any use permitted in the R-1 and R-2 Districts, Apartment Hotels. Colleges and universities, but not business colleges or trade schools, Fraternal, philanthropic and charitable use or institutions, provided that not more than twenty-five percent (25%) of the gross floor area or four thousand (4,000) square feet shall be used as office space. Hospitals, sanitariums, and convalescent homes, Institutions for the aged and for children, Lodging Houses and Tourist Homes, Nursery Schools, Boarding, Private Clubs or Lodges - not operated for profit, provided that not more than twenty percent (20%) of the gross floor area or two thousand (2,000) square feet, whichever is greater, shall be used as office space, Apartment House.

R-3 Standards: Minimum Lot Size: F.A.R. 0.7 or 70%  
A minimum Floor Area 512 Sq. Ft., and a minimum Lot Area 1000 Sq. Ft.

### Parking Requirements

- 1.5 parking spaces per 1 bedroom unit.
  - 2.0 parking spaces per 2 bedroom unit.
  - 3.0 parking spaces per 3 bedroom unit.
-

## **FINDINGS and RECOMMENDATION**

### **Staff Findings:**

The petitioner is proposing to sell the real estate to Jon Mutchner Homes for the development of approximately 32 town homes. The property is located on a corner of Keane Lane and Wabash Avenue with approximately 1.71 acres. The only access to the property is off of Keane Lane which is a one way street. The site plan that was submitted indicates a new drive cut off Wabash Avenue along with the existing drive cut off Keane Lane.

The property was petitioned to be rezoned for a multi-family apartment complex in 2017 (SO #17-17). The Area Plan Commission forwarded an unfavorable recommendation to City Council due to the lack of a drive cut on Wabash, which required tenants to travel through a residential neighborhood to exit. The petitioner withdrew the request at the following City Council meeting.

If the new drive cut does not get approved then the tenants will have to travel south down Keane Lane to Berkley Drive through a residential neighborhood or to Poplar Street to access a 2 way street unless another plan is agreed upon that may limit the traffic through residential. Single family residential abuts up to this development. The nearest R-3 zoning is Heritage Trail Apartments.

The Department of Engineering performed a sight distance study and determined there is no location on the site that would provide for a safe left turn onto Wabash Avenue due to a hill crest to the east of the property. The Department of Engineering offered a positive recommendation with the following conditions: 1) Access will be available to Wabash Avenue for right in, right out only. Plans submitted for this project must indicate a structural diverter to allow only right in, right out access. The location of the drive must also be subject to review to allow for adequate access; 2) Plans for the proposed development must be submitted and approved to the Department of Engineering.

**Recommendation:** Staff offers a favorable recommendation with the following conditions if Engineering and the petitioner agree to a suitable ingress/egress; otherwise, staff offers an unfavorable recommendation:

1. Site plan approval by City Engineering





4355 E. Wabash Ave



**SPECIAL ORDINANCE NO. 11, 2023**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

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Common Address of lots to be rezoned:  
4355 E. Wabash Avenue, Terre Haute, IN 47803

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Rezoned From: C-6 Strip Business

Rezoned To: R-3 Multifamily Residential District

Proposed Use: Multifamily Housing Units

Name of Owners: DeBaun Funeral Homes, Inc.

Address of Owners: 88 E. Springhill Drive  
Terre Haute, IN 47802

Phone Number of Owners: c/o Richard J. Shagley II  
812-232-3388

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery, P.C.  
PO Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Earl Elliott

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION



**FILED**

**APR 05 2023**

**SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 11, 2023**

**CITY CLERK**

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

SECTION I. BE IT ORDANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U.S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

Subject to conditions and restrictions concerning heating plants, intoxicating liquors and intoxicating beverages, sewer systems, types of material used in construction and building set back lines contained in a deed from Louis H. Petzold and Gertrude Petzold and George Harvey Froderman and Mildred J. Froderman to Inez T. Hollis and Mary M. Hollis dated August 3, 1948 and recorded in Deed Record 258, Page 549 of the records of the Vigo County Recorder, as modified by a certain Agreement and release of restrictions recorded in the Miscellaneous Record 150, Page 91 of the records of the Vigo County Recorder.

Parcel No.:84-07-19-102-001.000.009

Commonly known as: 4355 E. Wabash Avenue, Terre Haute, IN 47803.

Be and the same is hereby established as an R-3 Multifamily Residential District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."



SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, Earl Elliott  
Earl Elliott, Councilperson

Passed in open Council this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Curtis DeBaun IV, President

ATTEST:

\_\_\_\_\_  
Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Richard J. Shagley II  
Richard J. Shagley II

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

**PETITION TO REZONE REAL PROPERTY**

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE,  
INDIANA:

And THE PRESIDENT AND MEMBERS OF THE AREA PLAN COMMISSION FOR VIGO COUNTY,  
INDIANA:

LADIES AND GENTLEMAN:

The undersigned, DeBaun Funeral Homes, Inc., respectfully submit this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U.S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

Subject to conditions and restrictions concerning heating plants, intoxicating liquors and intoxicating beverages, sewer systems, types of material used in construction and building set back lines contained in a deed from Louis H. Petzold and Gertrude Petzold and George Harvey Froderman and Mildred J. Froderman to Inez T. Hollis and Mary M. Hollis dated August 3, 1948 and recorded in Deed Record 258, Page 549 of the records of the Vigo County Recorder, as modified by a certain Agreement and release of restrictions recorded in the Miscellaneous Record 150, Page 91 of the records of the Vigo County Recorder.

Parcel No.:84-07-19-102-001.000.009

Commonly known as: 4355 E. Wabash Avenue, Terre Haute, IN 47803.



Your Petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as C-6 Strip Business.

Your Petitioner intends to sell this real estate to Jon Mutchner Homes for development of 32 town houses. Your Petitioner would request that the real estate described herein shall be zoned as an R-3 Multifamily Residential District.

Your Petitioner would allege that the Neighborhood Commerce District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood.

Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," and declaring the above-described real estate to be part of the R-3 Multifamily Residential District of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, This petition has been duly executed this 24<sup>th</sup> day of March, 2023.

**PETITIONERS:**

DEBAUN FUNERAL HOMES, INC.

By: 

Curtis DeBaun III, ~~Vice~~ President

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

## SITE PLAN

### SPECIAL ORDINANCE NO. 11, 2023



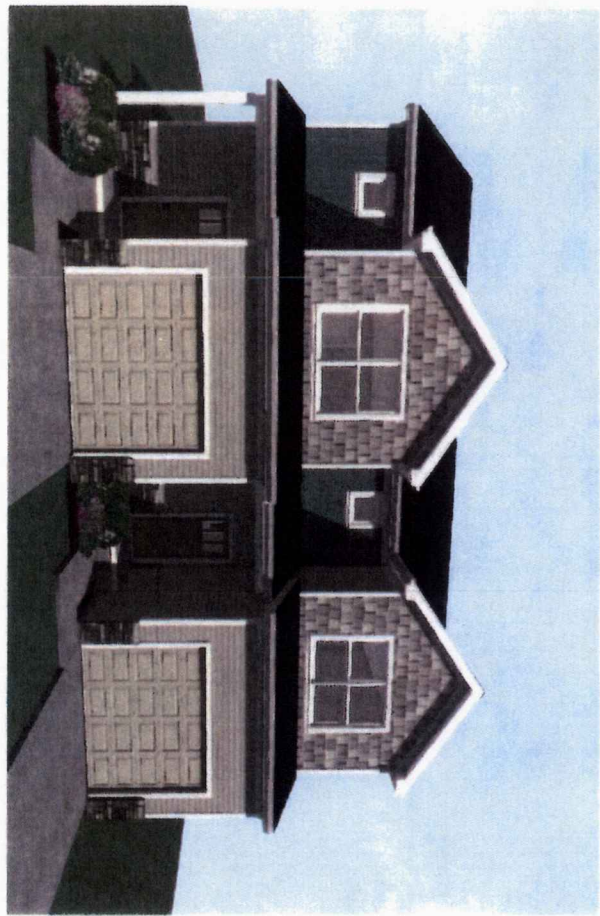
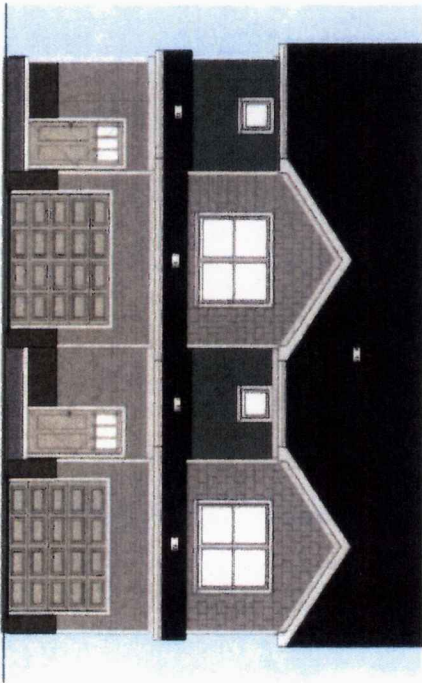
4355 East Wabash Avenue, Terre Haute, Indiana 47803

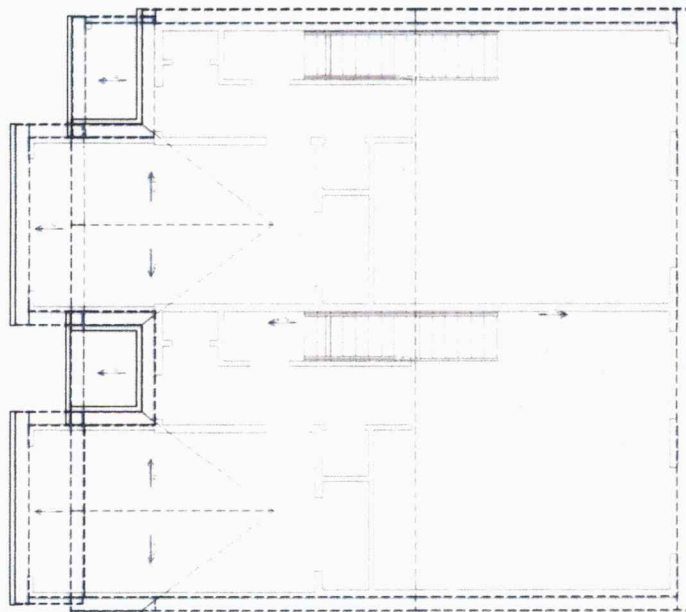
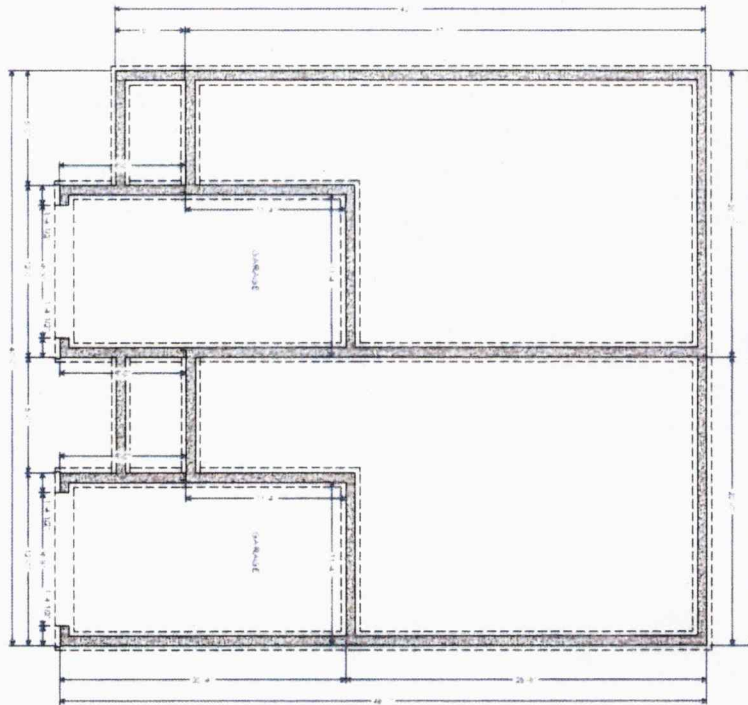
Parcel No. 84-07-19-102-001.000.009

C-6 Strip Business to R-3 Multifamily Residential District

Proposed Use: Town Homes







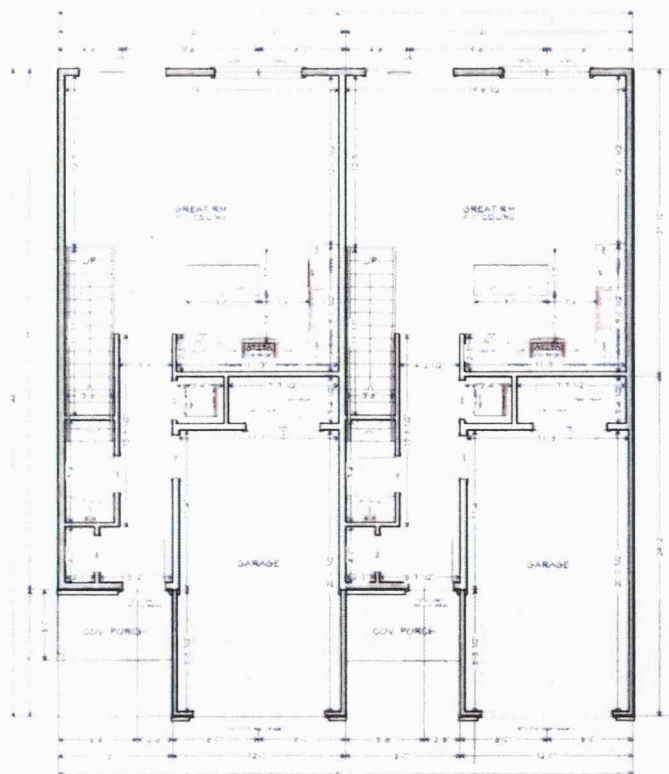
Foundation Plan

Scale: 1/4" = 1'-0"

Roof Plan

Scale: 1/4" = 1'-0"



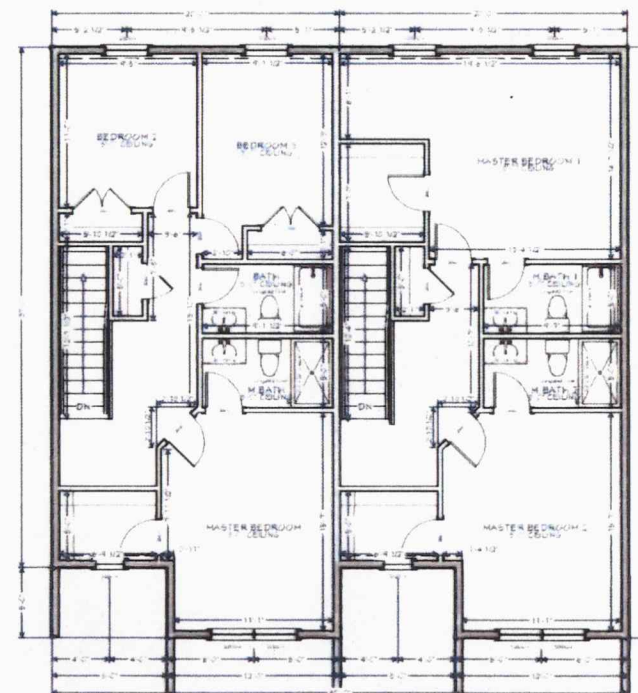


### Square Footage:

Main Floor: 612 sq. ft. each  
 Second Floor: 778 sq. ft. each  
 Garage: 240 sq. ft. each  
 Cov. Front Porch: 40 sq. ft.

### Notes:

Main level ceilings to be 9'-0" unless noted.  
 Second level ceilings to be 8'-0"  
 Exterior walls to be 2x6, interior to be 2x4.  
 Door and window sizes noted within plans.

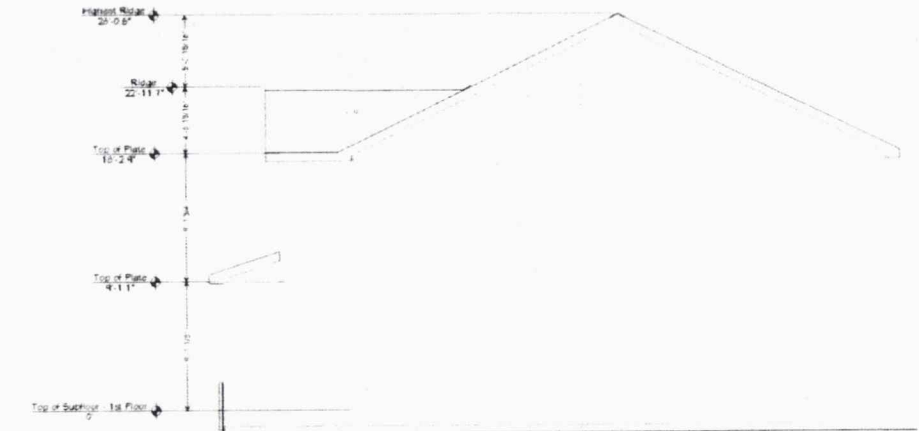


### Main Level Floor Plan

Scale: 1/4" = 1'-0"



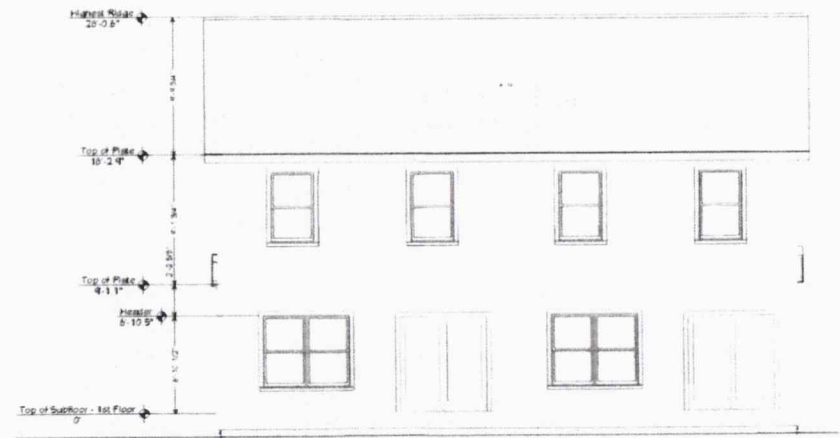
Front Elevation  
Scale: 1/4" = 1'-0"



Side Elevation  
Scale: 1/4" = 1'-0"



Side Elevation  
Scale: 1/4" = 1'-0"



Rear Elevation  
Scale: 1/4" = 1'-0"



STATE OF INDIANA     )

) SS:

COUNTY OF VIGO         )

**AFFIDAVIT**

Comes now, Curtis DeBaun III, Vice President of DeBaun Funeral Homes, Inc., being duly sworn upon his oath, deposes and says:

1.       That DeBaun Funeral Homes, Inc. is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U.S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U.S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southwesterly parallel with said South line of U.S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

Subject to conditions and restrictions concerning heating plants, intoxicating liquors and intoxicating beverages, sewer systems, types of material used in construction and building set back lines contained in a deed from Louis H. Petzold and Gertrude Petzold and George Harvey Froderman and Mildred J. Froderman to Inez T. Hollis and Mary M. Hollis dated August 3, 1948 and recorded in Deed Record 258, Page 549 of the records of the Vigo County Recorder, as modified by a certain Agreement and release of restrictions

recorded in the Miscellaneous Record 150, Page 91 of the records of the Vigo County Recorder.

Commonly known as: 4355 E. Wabash Avenue, Terre Haute, Indiana 47803.

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiants make this Affidavit for the sole purpose of affirming that DeBaun Funeral Homes, Inc. is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by DeBaun Funeral Homes, Inc.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 24<sup>th</sup> day of March, 2023.

DEBAUN FUNERAL HOMES, INC.

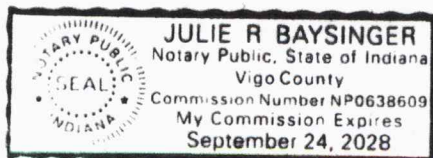
By: Curtis DeBaun III  
Curtis DeBaun III, ~~Vice~~ President

STATE OF INDIANA )

) SS:

COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 24<sup>th</sup> day of March, 2023.



Julie R. Baysinger  
Julie R. Baysinger Notary Public

My Commission expires: 9-24-2028

My County of Residence: Vermillion

This instrument prepared by Richard J. Shagley II, Attorney at Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

EXHIBIT A

96 11622

002866

FULLY ENTERED  
FOR TAXATION  
Duly entered for taxation  
19 JUL 29 1996

Received for record this  
\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, at \_\_\_\_\_ o'clock  
\_\_\_\_.M. and recorded in  
Book No. 441 Page 266

Michael R. Drexler  
Auditor \_\_\_\_\_ County \_\_\_\_\_

Recorder \_\_\_\_\_ County \_\_\_\_\_

WARRANTY DEED

THIS INDENTURE WITNESSETH that PAUL D. ENNEN, a competent adult, ("Grantor"), CONVEYS AND WARRANTS to DEBAHN FUNERAL HOMES, INC., an Indiana corporation, ("Grantee"), for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Vigo County, in the State of Indiana, to-wit:

A parcel of land in the North West quarter of Section 19, Township 12 North, Range 8 West, lying South of U.S. Highway 40, and more fully described as follows:

Beginning at the point of intersection of the south line of U. S. Highway 40 and the east line of Keane Lane (formerly known as Beecher Road), in the Northwest Quarter of Section 19, Township 12 North, Range 8 West, thence Northeasterly along the South line of said U. S. Highway 40, 187 feet; thence South parallel with said East line of Keane Lane 400 feet; thence Southeasterly parallel with said South line of U. S. Highway 40, 187 feet to the East line of said Keane Lane; thence North 400 feet to the place of beginning.

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Subject to the real estate taxes prorated to the date of closing.

IN WITNESS WHEREOF, Grantor has executed this deed this  
15th day of July, 1996.

Paul D. Ennen





## Receipt of Payment

TERRE HAUTE, IN.  
**PAID**  
APR 05 2023  
CONTROLLER

The following was paid to the City of Terre Haute Controller's Office

Date

04-05-2023

Name

Mutchnar Homes

Reason

Rezoning - Notice of filing \$25<sup>00</sup>  
Rezoning - Petition \$20<sup>00</sup>

\$45<sup>00</sup>

Cash

Check

\$45<sup>00</sup>

Ck #

73413

Credit

Total

\$45<sup>00</sup>

Received By

Dawn Price